



January 9, 2006

Office of the Comptroller of the Currency
250 E. Street, SW
Mail Stop 1-5
Washington, DC 20219
Docket No. 05-17

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No. OP-1240

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RIN No. 3064-AC97

Re: Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment, 70 FR 68450 (November 10, 2005)

Dear Sir or Madame:

America's Community Bankers ("ACB")¹ welcomes the opportunity to comment on the proposal issued by the agencies² to update and revise the Interagency Questions and Answers³ that interpret the Community Reinvestment Act ("CRA") and the implementing regulations. The proposed amendments to the questions and answers are being issued as a result of changes made by the agencies to the regulations that implement the CRA.⁴

ACB Position

ACB generally supports the proposed amendments to the Interagency Questions and Answers on CRA. ACB has supported the development and promulgation of the interpretive guidance relating to CRA and its implementing regulations. We appreciate having the ability to comment on the questions and answers the agencies provide to all parties in order to assist in an

¹America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² The federal banking agencies ("the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, collectively the 'agencies'") have issued guidance in the form of questions and answers that provides interpretations for insured institutions, examiners and others regarding the implementation of the Community Reinvestment Act.

³ 70 Fed. Reg 68450 (Nov. 10, 2005).

⁴ 70 Fed Reg 44256 (Aug 2, 2005)

understanding of the regulatory interpretation of the statute and its implementation. We believe that it is particularly useful for all parties that are interested in interpretation of the CRA and its implementing regulation to have regular input to such guidance.

ACB supports the clarifications that the revised definition of community development applies to all banks, not just the intermediate small banks. We also support the clarifications provided that establish that positive consideration may be given for certain activities in distressed middle income communities. ACB also believes that the issuance of this question and answer document has provided some valuable guidance on how the agencies will consider the activities of banks in designated disaster areas. Given the occurrence of several natural disasters in the past year, we welcome the certainty that several of the questions provide with regard to whether the agencies will give credit for activities in a designated disaster area. Community banks that are able to do so should be encouraged to continue to operate in disaster areas and provide much needed financial services.

We also appreciate the specific guidance to references contained in the proposed questions and answers that the agencies have given in the wake of Hurricanes Katrina and Rita. We believe that it is important that all banks understand that certain activities related to disaster relief will receive positive consideration even if neither the activity nor the bank is located in a designated disaster area.

As with any guidance issued by the agencies, ACB is concerned that examiners in the field interpret the guidance consistently across agencies and from region to region. We also are concerned that examiners not view guidance in the same manner as regulation. ACB urges the agencies to ensure that any examiner communication reiterates the distinction.

We appreciate that the agencies have worked together on this document, because it is important that all parties, including examiners, have common documents to interpret regulations. However, we also note that in the recent past the agencies have implemented differing approaches in certain areas to fulfilling statutory mandates under the CRA. In particular, the Office of Thrift Supervision (OTS) revised the definition of “small savings association” to mean any savings association with total assets of less than \$1 billion.⁵ ACB fully supports continuation of this provision as promulgated by the OTS.

Background

The proposed questions and answers have been issued to provide interpretations on the implementation of the revisions to the CRA regulation that were adopted by the agencies in the summer of 2005. Those changes to the regulation included the development of an intermediate small institution category for those banks with between \$250 million and \$1 billion in assets. The intermediate small institutions are not required to satisfy the large institution lending, investment and service tests as part of the examination process. They are examined using the small institution streamlined examination as well as a new community development test.

⁵ 69 Fed. Reg. 51155 (August 18, 2004).

Revised Community Development Definition

ACB supports the revised definition of community development and the clarification that the definition applies to the activities of all banks, not just to intermediate small banks. The definition of community development is the subject of debate whenever the CRA implementing regulation is revised. We believe the inclusion of activities that revitalize or stabilize a designated disaster area is an important component of the community development definition. The events of the recent past have reminded all community banks just how important it is to work with distressed communities to rebuild infrastructure, rebuild homes and provide services to consumers. ACB supports the one-year lag period during which a bank continues to receive positive consideration for activities in a designated disaster area for which the designation has expired.

We believe the one-year lag period following expiration of the official designated disaster area may be sufficient for some disasters, but we urge the agencies to view this time period flexibly. Given the nature of community development activities and how complicated and unique they are, we recommend that the agencies have some flexibility in looking at the time frame during which favorable consideration will be given. ACB also urges the agencies to view the duration of the disaster designation flexibly.

We are concerned that a one-year lag time and precise definitions of the duration of the disaster may not be applicable in areas that have been significantly damaged by an extraordinary natural disaster. In the example of the devastation to a geographic area caused by Hurricanes Rita and Katrina, the magnitude of the rebuilding effort is apparent and we believe that it will not be known for some years just how long the rebuilding and revitalization efforts will take. Community banks frequently do not need an incentive to provide loans, investments or services in their communities or to communities in need, but receiving CRA consideration is helpful.

ACB also supports the clarification that in certain cases, community development activities that provide housing for middle- and upper-income populations may be given positive consideration. In the past ACB has stated that community banks serving their communities should receive consideration for activities that help to revitalize and stabilize the community even if the activities are broader than providing housing to low- to middle-income populations.

We continue to support the ability of banks to request that the activities of an affiliate be considered for CRA purposes if the activities are in the assessment area. We appreciate the specific reference that small intermediate banks may make such an election.

Further, ACB supports the specific reference to the ability of banks to receive positive CRA consideration for providing international remittances services that increase access to financial services by low and moderate income persons.

Conclusion

ACB appreciates the opportunity to comment on this important matter. The implementation of CRA continues to be a difficult task for the agencies and for community banks. Since the revision of the regulations in the mid 1990's, the availability of questions and answers and other

interpretive information has been very useful. Every community is different and every community bank serves its community in a unique manner. The continued ability of all participants in this area to provide interpretive information is critical to the success of any CRA implementing regulation. We look forward to working with the agencies on the development of guidance in the future, as well as working with the agencies to develop less burdensome ways to implement the statutory mandates.

Please contact the undersigned at (202) 857-5088, or Janet Frank at 202-857-3129 or via email at jfrank@acbankers.org, should you have any questions about this letter.

Sincerely,

A handwritten signature in black ink, reading "Robert R. Davis". The signature is written in a cursive, flowing style.

Robert R. Davis
Executive Vice President and
Managing Director, Government Relations